

Commissioner for Patents  
Amendment dated May 26, 2005  
Response to Office Action dated January 26, 2005  
Page 5 of 6

Serial No.: 09/935414  
Art Unit: 2154  
Examiner: Hu  
Docket No. AUS9 2001 0135 US1

### REMARKS/ARGUMENTS

Claims 1-20 were pending and examined. The Examiner rejected claims 1-2, 4-7, 9-10, 12-15, and 17-19 under 35 USC § 102(e) as being anticipated by Gopal *et al.* (U.S. Patent No. 6,163,812), hereinafter "Gopal". The Examiner rejected claims 3, 8, 11, 16, and 20 under 35 USC § 103(a) as being unpatentable over Gopal, in view of "Official Notice". In this response, Applicant has amended claims 1, 9, and 17, and canceled claims 3, 11, and 20. Claims 1, 2, 4-10, and 12-19 remain pending after amended.

#### Claim rejections under 35 USC § 102(e)

The Examiner rejected claims 1-2, 4-7, 9-10, 12-15, and 17-19 under Section 102(e) as being anticipated by Gopal.

In response to the rejection of independent claim 1, Applicant has amended claim 1 to incorporate the limitations of originally presented claim 3 (now canceled). Original claim 3 was rejected under 35 USC Section 103(a) as unpatentable over Gopal. Applicant respectfully requests the Examiner to withdraw Gopal as a reference with respect to claim 1 as amended. The invention and the subject matter of Gopal were, at the time of the invention, commonly owned by or subject to a right of assignment to a common entity, namely, IBM Corporation. Accordingly, under the provisions of 35 USC Section 103(c), Gopal cannot be cited in support of a Section 103(a) rejection against original claim 3 or claim 1 as amended. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of amended claim 1 and its remaining dependent claims.

In response to the rejection of independent claim 9, Applicant has amended claim 9 to incorporate the limitations of originally presented claim 11 (now canceled). Original claim 11 was rejected under 35 USC Section 103(a) as unpatentable over Gopal. For the same reasons discussed above with respect to amended claim 1, Gopal cannot be cited in support of a Section 103(a) rejection against original claim 11 or claim 9 as amended. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of amended claim 9 and its remaining dependent claims.

Commissioner for Patents  
Amendment dated May 26, 2005  
Response to Office Action dated January 26, 2005  
Page 6 of 6

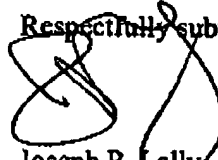
Serial No.: 09/935414  
Art Unit: 2154  
Examiner: Hu  
Docket No. AUS9 2001 0135 US1

In response to the rejection of independent claim 17, Applicant has amended claim 17 to incorporate the limitations of originally presented claim 20 (now canceled). Original claim 20 was rejected under 35 USC Section 103(a) as unpatentable over Gopal. For the same reasons discussed above with respect to amended claim 1, Gopal cannot be cited in support of a Section 103(a) rejection against original claim 20 or claim 17 as amended. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of amended claim 17 and its remaining dependent claims.

### CONCLUSION

In the present response, Applicant has responded to the Examiner's claim rejections under 35 USC § 102(e), and 35 USC § 103(a). Accordingly, Applicant believes that this response constitutes a complete response to each of the issues raised in the office action. In light of the amendments made herein and the accompanying remarks, Applicant believes that the pending claims are in condition for allowance. Accordingly, Applicant would request the Examiner to withdraw the rejections, allow the pending claims, and advance the application to issue. If the Examiner has any questions, comments, or suggestions, the undersigned attorney would welcome and encourage a telephone conference at 512.428.9872.

Respectfully submitted,



Joseph P. Lally  
Reg. No. 38,947  
ATTORNEY FOR APPLICANT(S)

LALLY & LALLY, L.L.P.  
P.O. Box 684749  
Austin, Texas 78768-4749  
512.428.9870  
512.428.9871 (FAX)

JPL/mtmm

Attachments